

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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CROWN CASTLE NG EAST LLC,

Plaintiff,

JUDGMENT
CV 17-3445 (SJF)(ARL)

- against -

THE TOWN OF OYSTER BAY, THE
TOWN OF OYSTER BAY PLANNING
BOARD, RICHARD LENZ, in his official
capacity as Commissioner of the Town of
Oyster Bay Highway Department and
Department of Public Works, and JOHN
BISHOP, in his official capacity as Deputy
Commissioner of the Town of Oyster Bay
Highway Department,

Defendants.

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An Order of Honorable Sandra J. Feuerstein, United States District Judge, having been filed on May 12, 2020, accepting in its entirety the February 21, 2020 Report and Recommendation of United States Magistrate Judge Arlene R. Lindsay; dismissing in their entirety plaintiff's claims pursuant to the Telecommunications Act (Counts I, II, III, IV, and V) for lack of subject matter jurisdiction; granting the branches of defendants' motion seeking summary judgment on plaintiff's remaining claims pursuant to Rule 56 of the Federal Rules of Civil Procedure to the extent that: (A) defendants are granted judgment as a matter of law dismissing plaintiff's claims pursuant to 42 U.S.C. § 1983 ("Section 1983") (Counts VII, VIII and IX) in their entirety with prejudice, and (B) the Court declines to exercise supplemental jurisdiction over the remaining state law claims in this action, including defendants' counterclaims, and those claims are dismissed in their entirety without prejudice pursuant to 28 U.S.C. § 1367(c); denying plaintiff's motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure; denying as moot plaintiff's motion to strike the declaration and

expert report of rebuttal expert Roger Mascettis; and directing the Clerk of the Court to enter judgment in accordance with the May 12, 2020 Order and close this case, it is

ORDERED AND ADJUDGED that plaintiff Crown Castle NG East LLC take nothing of defendants the Town of Oyster Bay, the Town of Oyster Bay Town Board, Richard Lenz, and John Bishop; that plaintiff's claims pursuant to the Telecommunications Act (Counts I, II, III, IV, and V) are dismissed in their entirety for lack of subject matter jurisdiction; that the branches of defendants' motion seeking summary judgment on plaintiff's remaining claims pursuant to Rule 56 of the Federal Rules of Civil Procedure is granted to the extent (A) that defendants are granted judgment as a matter of law dismissing plaintiff's claims pursuant to 42 U.S.C. § 1983 ("Section 1983") (Counts VII, VIII and IX) in their entirety with prejudice, and (B) that the Court declines to exercise supplemental jurisdiction over the remaining state law claims in this action, including defendants' counterclaims, and those claims are dismissed in their entirety without prejudice pursuant to 28 U.S.C. § 1367(c); that plaintiff's motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure is denied; that plaintiff's motion to strike the declaration and expert report of rebuttal expert Roger Mascettis is denied as moot; and that this case is closed.

Dated: May 12, 2020
Central Islip, New York

DOUGLAS C. PALMER
CLERK OF THE COURT
By: /s/ James J. Toritto
Deputy Clerk